

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA

Todd County, Wadena County and Otter Tail County, municipal subdivisions of the State of Minnesota,

Plaintiffs/Counterclaim  
Defendants/Debtors,

vs.

**AFFIDAVIT OF ROBYN SYKES**

Barlow Projects, Inc., a Colorado corporation,

Defendant/Counterclaimant/Judgment  
Creditor/Plaintiff on Supplemental  
Complaint,

vs.

Minnesota Counties Insurance Trust,

Garnishee/Defendant on  
Supplemental Complaint.

STATE OF MINNESOTA)

)ss.

COUNTY OF RAMSEY )

**ROBYN SYKES**, being first duly sworn upon oath, deposes and states as follows:

1. That your Affiant is the Executive Director of the MCTT, the Defendant in this matter, and in such capacity, is familiar with the facts and circumstances surrounding the present lawsuit.

2. MCIT is a self-funded risk sharing joint powers organization created pursuant to Minn. Stat. §471.59 and §471.981.

3. Membership in the MCIT is selective. Entities seeking membership are:

- 1.) Permitted to do so under the Trusts enabling legislation, Bylaws and guidelines.
- 2.) Subject to the tort immunities and limitations afforded by Minn. Stat. §466;
- 3.) Sponsored by either a member county or the MCIT Board of Directors; and
- 4.) Approved for the participation by the MCIT Board of Directors.

4. The MCIT is governed by a board of directors elected and appointed from counties in the State of Minnesota. Pursuant to the MCIT Bylaws, six board members are elected from the membership on a rotating basis; two are appointed by MCIT's sponsoring organization, the Association of Minnesota Counties; and one is recommended to the board by the Minnesota County Administrator's Association. All serve a 4-year term except the coordinator/administrator who is appointed every 2 years. Elections to the board are held during MCIT's Annual Membership meeting.

5. The MCIT presently provides coverage or services to 82 Minnesota counties and 380 other public entities associated with county government including the counties of Otter Tail, Wadena and Todd.

6. A member's annual contribution in the MCIT is calculated based on an

actuarial formula considering loss trends for the entire pool of participants; administrative costs such as reinsurance costs and structure, operational costs, IBNR (claims incurred but not reported); emerging risks; developing case law; and new or modified coverage. Using this information the MCIT's actuary then determines how much contribution is needed to cover expenses and provide sufficient reserves to guarantee the financial stability of the MCIT. These rates are then applied to each member's list of exposures. Contributions are prospective. They represent what the MCIT expects will be needed to pay claims and provide services for the upcoming year.

7. Pursuant to the MCIT's mission, broad coverage is afforded to its members and is uniquely tailored to member needs. For example, conventional insurers typically do not cover:

- Department of Human Rights or Equal Employment Opportunity Claims
- Writs of Mandamus and non-monetary claims
- Allegations of Open Meeting Violations
- Pesticide/herbicide applications
- Death of Law Enforcement K-9's
- Open meeting and Data Practice claims.

8. Entities seeking membership in the MCIT agree to, and are signatories of, the Joint Powers Agreement.

9. The MCIT, in an effort to reduce the risk and exposure of its members, provides extensive loss control education and training to its members including:

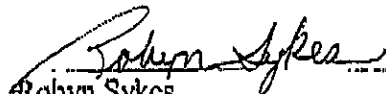
- Regular publications for members addressing coverage, risk management/loss prevention and claims issues.
- Regional seminars, association presentations and single-member training sessions for members.
- Annual coverage reviews with each County member.

10. In 2004 the MCIT Board modified Section 7.11 of the MCIT Bylaws to provide for a specific ADR process that was defined to be "final and binding" on the parties.


This change was in response to litigation involving a consortium of counties.

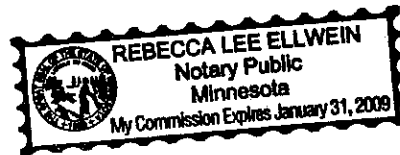
FURTHER YOUR AFFIANT SAITH NOT.

Dated: 6/5/07

  
Robyn Sykes

Subscribed and sworn to before me  
this 5<sup>th</sup> day of June, 2007.

  
Notary Public



00000007061gA001 R Sykes.doc